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**BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Stipulated Settlement and  
Disciplinary Order Against:

ROBIN NICOLE LAVALLI  
4148 Central Sarasota Parkway Apt 1322  
Sarasota, FL 34238

Registered Nurse License No. 834540

Respondent.

Case No. 2012-188

OAH No. 2011120813

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

**DECISION AND ORDER**

The attached Stipulated Surrender of License and Order is hereby adopted by the  
Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

It is so ORDERED on MAY 7, 2013.

This Decision shall become effective on MAY 7, 2013.

*Louise R. Bailey, M.Ed., RN*  
Louise R. Bailey, M.Ed., RN, Executive Officer  
FOR THE BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS

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3 **BEFORE THE**  
4 **BOARD OF REGISTERED NURSING**  
5 **DEPARTMENT OF CONSUMER AFFAIRS**  
6 **STATE OF CALIFORNIA**

7 In the Matter of the Stipulated Settlement and  
8 Disciplinary Order Against:

9 ROBIN NICOLE LAVALLI  
10 4148 Central Sarasota Parkway Apt 1322  
11 Sarasota, FL 34238

12 Registered Nurse License No. 834540

13 Respondent.

Case No. 2012-188

OAH No. 2011120813

14 **STIPULATED SURRENDER OF**  
15 **LICENSE AND ORDER**

16 IT IS HEREBY STIPULATED AND AGREED by and between  
17 the parties that the following matters are true:

18 PARTIES

19 1. Louise R. Bailey, M.Ed., R.N. (Complainant) is the  
20 Executive Officer of the Board of Registered Nursing, who brought this action  
21 solely in her official capacity.

22 2. Robin Nicole Lavalli, (Respondent), is representing herself  
23 in this proceeding and has chosen not to exercise her right to be represented by  
24 counsel.

25 3. On or about January 3, 2013, the Board issued Registered  
26 Nurse License Number 834540 to Respondent. On December 4, 2012, pursuant  
27 to Proposed Decision by the Board as its Decision in the disciplinary action titled  
28 *In the Matter of the Statement of Issues Against Robin Nicole Lavalli*, Case  
Number 2012-188, the Board ordered that Respondent's License be revoked  
effective January 3, 2013. The revocation was stayed and Respondent was placed  
on probation for three (3) years subject to terms and conditions. Respondent's  
License will expire on March 31, 2014.

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2 **ORDER**

3 IT IS HEREBY ORDERED that Registered Nurse License No. 834540, issued to  
4 Respondent Robin Nicole Lavalli is surrendered and the surrender is accepted by the Board of  
5 Registered Nursing.

6 12. The surrender of Respondent's Registered Nurse License and the  
7 acceptance of the surrendered license by the Board shall constitute the imposition of discipline  
8 against Respondent. This stipulation constitutes a record of the discipline and shall become a  
9 part of Respondent's license history with the Board.

10 13. Respondent shall lose all rights and privileges as a Registered Nurse in  
11 California as of the effective date of the Board's Decision and Order.

12 14. Respondent shall cause to be delivered to the Board both her pocket  
13 license and wall certificate, if one was issued, on or before the effective date of the Decision and  
14 Order.

15 15. Respondent fully understands and agrees that if she ever files an  
16 application for licensure or a petition for reinstatement in the State of California, the Board shall  
17 treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations  
18 and procedures for reinstatement of a revoked license in effect at the time the petition is filed,  
19 and all of the charges and allegations contained in Accusation No. 2012-188 shall be deemed to  
20 be true, correct and admitted by Respondent when the Board determines whether to grant or deny  
21 the petition.

22 16. Respondent shall not apply for licensure or petition for reinstatement for 2  
23 years from the effective date of the Board of Registered Nursing's Decision and Order.  
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DATED: 03-29-2013

ROBIN NICOLE LAVALLI  
Respondent

The foregoing Stipulated Surrender of License and Order is hereby respectfully accepted by Louise R. Bailey, M.Ed., R.N. (Complainant) is the Executive Officer for the Board of Registered Nursing.

DATED: MAY 7, 2013

Louise R. Bailey, M.Ed., R.N.  
Executive Officer

BOARD OF REGISTERED NURSING

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**EXHIBIT "A"**

Proposed Decision No. 2012-188

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Statement of Issues  
Against:

ROBIN NICOLE LAVALLI

Respondent.

Case No. 2012-188

OAH No. 2011120813

**DECISION**

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its decision in the above-entitled matter, except that, pursuant to the provisions of Government Code Section 11517 (c)(2)(B), the proposed penalty is reduced as follows:

**ORDER**

The application of respondent Robin Nicole Lavalli, for licensure is hereby granted and a license shall be issued to respondent upon successful completion of all licensing requirements. Said license shall immediately be revoked, the order of revocation stayed and respondent placed on probation for a period of three (3) years on the following conditions:

**SEVERABILITY CLAUSE** – Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

**(1) OBEY ALL LAWS** - Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by the

respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

**CRIMINAL COURT ORDERS:** If respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

**(2) COMPLY WITH THE BOARD'S PROBATION PROGRAM** - Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, respondent's license shall be fully restored.

**(3) REPORT IN PERSON** - Respondent, during the period of probation, shall appear in person at interviews/ meetings as directed by the Board or its designated representatives.

**(4) RESIDENCY, PRACTICE, OR LICENSURE OUTSIDE OF STATE** - Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Respondent's probation is tolled, if and when he or she resides outside of California. The respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Respondent shall provide a list of all states and territories where he has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing license during the term of probation.

**(5) SUBMIT WRITTEN REPORTS** - Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall

immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which he or she has a registered nurse license.

**(6) FUNCTION AS A REGISTERED NURSE** - Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If respondent has not complied with this condition during the probationary term, and the respondent has presented sufficient documentation of his good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

**(7) EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS** -

Respondent shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this decision to his or her employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, respondent shall notify the Board in writing within seventy-two (72) hours after he obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

**(8) SUPERVISION** - Respondent shall obtain prior approval from the Board regarding respondent's level of supervision and/or collaboration before

commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

- (a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.
- (b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours respondent works.
- (c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with respondent at least twice during each shift worked.
- (d) Home Health Care - If respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by the respondent with or without respondent present.

**(9) EMPLOYMENT LIMITATIONS** - Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If the respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

**(10) COMPLETE A NURSING COURSE(S)** - Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to respondent after photocopying them for its records.

**(11) VIOLATION OF PROBATION** - If a respondent violates the conditions of her probation, the Board after giving the respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of the respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

**(12) LICENSE SURRENDER** - During respondent's term of probation, if she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, respondent may surrender her license to the Board. The Board reserves the right to evaluate respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, respondent will no longer be subject to the conditions of probation.

Surrender of respondent's license shall be considered a disciplinary action and shall become a part of respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

(1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or

(2) One year for a license surrendered for a mental or physical illness.

**(14) PHYSICAL EXAMINATION** - Within 45 days of the effective date of this decision, respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician assistant, who is approved by the Board before the assessment is performed, submit an assessment of the respondent's physical condition and capability to perform the duties of a registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If medically determined, a recommended treatment program will be instituted and followed by the respondent with the physician, nurse practitioner, or physician assistant providing written reports to the Board on forms provided by the Board.

If respondent is determined to be unable to practice safely as a registered nurse, the licensed physician, nurse practitioner, or physician assistant making this determination shall immediately notify the Board and respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and shall not resume practice until notified by the Board. During this period of suspension, respondent shall not engage in any practice for which a license issued by the board is required until the Board has notified respondent that a medical determination permits respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If the respondent fails to have the above assessment submitted to the Board within the 45-day requirement, respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

**(15) PARTICIPATE IN TREATMENT/REHABILITATION PROGRAM FOR CHEMICAL DEPENDENCE** - Respondent, at her expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six months duration. As required, reports shall be submitted by the program on forms provided by the Board. If respondent has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, respondent, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the Board shall consider respondent in violation of probation.

Based on Board recommendation, each week respondent shall be required to attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Respondent shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

**(16) ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS -**

Respondent shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, the respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of respondent's history of substance abuse and will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

**(17) SUBMIT TO TESTS AND SAMPLES -** Respondent, at her expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. The respondent is responsible for keeping the Board informed of respondent's current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when she is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and the respondent shall be considered in violation of probation.

In addition, respondent, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

If respondent fails to participate in a random, biological fluid testing or drug screening program within the specified time frame, the respondent shall immediately cease practice and shall not resume practice until notified by the Board. After taking into account documented evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

**(18) MENTAL HEALTH EXAMINATION** - The respondent shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine her capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of the respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by the respondent.

If respondent is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the Board and respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and may not resume practice until notified by the Board. During this period of suspension, respondent shall not engage in any practice for which a license issued by the Board is required, until the Board has notified respondent that a mental health determination permits respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If the respondent fails to have the above assessment submitted to the Board within the 45-day requirement, respondent shall immediately cease practice and

shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

**(19) THERAPY OR COUNSELING PROGRAM** - Respondent, at her expense, shall participate in an on-going counseling program until such time as the Board releases her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

This Decision shall become effective on January 3, 2013.

IT IS SO ORDERED this 4<sup>th</sup> day of December.

  
\_\_\_\_\_  
RAYMOND MALLEL  
BOARD OF REGISTERED NURSING  
STATE OF CALIFORNIA

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Statement of Issues  
Against:

ROBIN NICOLE LAVALLI,  
Stanley, NC

Respondent.

Case No. 2012-188

OAH No. 2011120813

**PROPOSED DECISION**

On July 26, 2012, in Sacramento, California, Ann Elizabeth Sarli, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter.

Complainant was represented by Lorrie M. Yost, Supervising Deputy Attorney General.

Respondent, Robin Nicole Lavalli, appeared by telephone and represented herself.

Evidence and argument were received. The matter was submitted and the record was closed on July 26, 2012.

**FACTUAL FINDINGS**

1. On January 11, 2011, the Board of Registered Nursing received respondent's application for a registered nurse license. The Board denied the application based upon respondent's two criminal convictions for operating a vehicle while intoxicated.

2. On September 29, 2011, complainant Louise R. Bailey M.ED., R.N., made the Statement of Issues in her official capacity as Executive Officer, Board of Registered Nursing, Department of Consumer Affairs, State of California. Respondent timely requested a hearing by filing a Notice of Defense. A hearing was held pursuant to Government Code section 11505.

### *Respondent's Criminal Convictions*

3. On June 29, 2006, in the criminal proceeding titled *City in East Lansing vs. Robin Nicole Lavalli* (54-B Judicial Dist., Michigan, 2006, Case No. 06-2398), respondent pled guilty to operating a vehicle while intoxicated, a misdemeanor. The circumstances of the crime were that on May 11, 2006, respondent drove a vehicle while having a blood-alcohol level of .17 percent. Respondent was sentenced to pay fines, serve one day in jail and perform community service.

4. On November 1, 2007, in the criminal proceeding titled *State of Michigan vs. Robin Nicole Lavalli* (54-B Judicial Dist., Michigan, 2006, Case No. 06-2398), respondent pled guilty to operating a vehicle while intoxicated, 2nd offense, a misdemeanor. The circumstances of the crime were that on September 21, 2007, respondent drove a vehicle while having a blood-alcohol level of .14 percent. Respondent was sentenced to pay fines, serve 18 months of probation, submit to drug and alcohol testing, complete intensive outpatient substance abuse counseling, attend AA/NA 90 times in 90 days and perform 50 hours of alternative service program. On September 4, 2009, respondent was released from probation with improvement and the court file was closed.

### *Evidence of Rehabilitation*

5. Respondent is 28 years old. She has a Bachelors of Science Degree in Nursing from Michigan State University College of Nursing. She received a nursing license in Michigan in May 2007. Her home is in North Carolina, but she works for an agency as a travel nurse. In this position she works in a new location every three months. She has worked in hospitals in North Carolina, Florida, Michigan and New York. She holds nursing licenses in Michigan, New York and 24 "compact states." She wishes to add California to the locations to which she can be assigned. She was born in California and wishes to try a few assignments in California to see if she would like to relocate here.

6. Respondent acknowledges that she used alcohol in a manner which was dangerous to herself and possibly the public. She understands the severity of these offenses. However, she stopped drinking alcohol on the day of her last arrest, September 21, 2007, and never intends to drink alcohol again. She decided she was not going to sacrifice all of her hard work obtaining her nursing degree for social drinking.

7. Respondent testified that she fully complied with all the terms of her probation after her convictions. She successfully completed an intensive six-week outpatient substance abuse treatment program. She realized that alcohol had been a part of her life through college and she did not want to put her career as a nurse in jeopardy. The counselor in her program encouraged her to make new friends since some of her old friends were unwilling to stop drinking around her. She made new friends, including a new boyfriend who does not drink alcohol. She attended AA for 90 days and then twice a week for 15 months. She worked through each of the 12 steps of AA successfully. In May 2010, she had a substance abuse evaluation done by a certified addictions counselor.

8. Respondent maintains that her prior convictions do not affect her ability to safely and efficiently practice nursing. She pointed out that she has not been denied a license in other states due to her criminal convictions.

9. Respondent has no prior license discipline and has no subsequent criminal convictions. Her nursing licenses are in good standing.

10. Respondent submitted proof of compliance with her probationary conditions. She submitted a letter from Dave Rimka, LMSW, CAAC, Clinical Supervisor, Millennium Treatment Services, LLC, which confirmed that she had been discharged from the program on March 19, 2008 with "perfect attendance." She submitted a substance abuse evaluation dated May 25, 2010, completed by Kenneth W. Laakko, BA, CAC-M, CPS-M, which included his diagnostic impression that respondent has never met the DSM-IV criteria for dependency to any substance. He noted that she has a history of alcohol abuse but currently meets the criteria for alcohol abuse and sustained remission with last use of alcohol September 21, 2007. He wrote that prognosis for abstinence is good, she reported sustained abstinence in September 21, 2007 and she was participating in support groups regularly. He recommended she continue participating in substance abuse support groups and that she obtain a sponsor. He noted that the prognosis for abstinence is good with continued support group attendance.

11. Respondent submitted in evidence multiple letters from friends and relatives, which had been submitted in 2010 to the Michigan Department of State in order to request that her driver's license be reinstated. Respondent's friend Nichole Andres wrote on July 7, 2010 that she is respondent's close friend and has been her co-worker. She affirmed that respondent is a non-drinker and declined alcohol at bridal and baby showers they both attended. She noted that "it is not a struggle" for respondent to abstain from drinking alcohol. They often have "girls night" where some co-workers drink wine or have a cocktail, but respondent chooses not to drink.

12. Respondent's friend, Chelsea Perry, wrote a letter dated July 26, 2010 stating that she has known respondent for eight years. Ms. Perry is a police officer in Ingham County, Michigan. She wrote that in the last 2 1/2 years respondent has surrounded herself with a new group of people who do not drink alcohol. Ms. Perry believes that respondent realized after her second drunk driving conviction that it was not worth it for her to continue on the path she was on. Respondent's friend, Melissa Gucker, wrote on May 10, 2010 that respondent stopped drinking the night of her second DUI. She wrote that respondent is a different person than she was in college and has matured greatly.

13. Respondent's mother and brother wrote letters in 2010 explaining that they were seeing her about twice a month in Michigan. They wrote that she has been diligent in attending AA, she does not drink alcohol, she is very devoted to her nursing career and the entire family has been a strong support system during her journey.

14. Respondent does not currently attend AA meetings. She does not have a sponsor. She did not submit in evidence letters from her employer or from staff at her hospital placements. She testified that the hospitals she works for often ask her to extend a contract with them or to come to work for them, however she enjoys the traveling aspect of her job and has declined.

### *Discussion*

15. Complainant's counsel agreed that respondent would ordinarily be a candidate for a probationary license designed to monitor her for a short period of time. Counsel pointed out that respondent has never been monitored in her employment and that all her evidence of rehabilitation, other than her own testimony, was garnered in 2010. Additionally, no one in a position to supervise respondent's practice testified or submitted letters attesting to her sobriety and responsibility. These deficiencies in respondent's rehabilitation evidence are most probably due to the nature of her chosen work. However, it is the Board's mandate to protect the public by imposing probationary restrictions on licensure until such time as there is significant evidence that restrictions are no longer required. It was uncontroverted that respondent would be unable to comply with most of the terms or conditions of probation, because she would infrequently, if at all, be working within the State of California. It would be extremely burdensome, impractical and ineffective to toll a probationary period during the portions of the year in which respondent worked out of state and then reinstate the probationary period for any 13 week period in which she obtains an in-state assignment.

### LEGAL CONCLUSIONS

1. Business and Professions Code<sup>1</sup> section 2736, subdivision (a), provides in pertinent part:

An applicant for licensure as a registered nurse shall comply with each of the following:

[¶...¶]

(3) Not be subject to denial of licensure under Section 480.

2. Section 480, provides in pertinent part:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

---

<sup>1</sup> All statutory references are to the California Business and Professions Code unless otherwise indicated.

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

[¶...¶]

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that ... he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

3. Section 2761, subdivision (f), states in pertinent part:

The Board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

4. California Code of Regulations, (CCR) title 16, section 1444, provides that a conviction shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety or welfare.

5. As set forth in the Factual Findings and Legal Conclusions 1 through 4, cause exists to deny respondent's application for licensure under sections 2736, 2761, subdivision (f), and 480, subdivisions (a)(1) and (a)(3)(A), in that respondent has been convicted of two misdemeanor offenses which are substantially related to the qualifications, functions and duties of the registered nurse. Respondent's inability to maintain sobriety and her operation of motor vehicles while intoxicated evidence to a substantial degree unfitness to practice in a manner consistent with the public health safety and welfare.

6. Section 2761, subdivision (a), provides in pertinent part that the Board may deny an application for a certificate or license for unprofessional conduct. Section 2762, provides in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter it is unprofessional conduct for a person licensed under this chapter to do any of the following:

[¶...¶]

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

7. As set forth in the Factual Findings and Legal Conclusions 1 through 6, cause exists to deny respondent's application for licensure under sections 480, subdivisions (a)(1) and (a)(3)(A), 2761, subdivision (a), and 2762, subdivision (b), in that respondent committed unprofessional conduct by using alcoholic beverages to an extent and in a manner dangerous and injurious to herself and the public.

8. As set forth in the Factual Findings and Legal Conclusions 1 through 7, cause exists to deny respondent's application for licensure under sections 480, subdivisions (a)(3)(A), 2761, subdivision (a), and 2762, subdivision (c), in that respondent was convicted of crimes related to the consumption of alcoholic beverages.

## *Rehabilitation*

9. Section 482, subdivision (a), provides:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

10. The Board has adopted criteria to be considered in determining rehabilitation for abuse of alcohol or other drug related offenses which includes, but is not limited to:

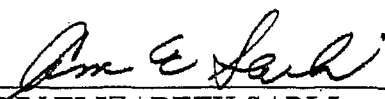
- Successful completion of drug/alcohol treatment program (a minimum of six (6) months duration). The treatment program may be a combined in-patient/out-patient and aftercare. Such a program will include at least the following elements:
  - Chemical-free treatment philosophy
  - Individual and/or group counseling
  - Random, documented biological fluid screening
  - Participation in nurse (or other professionals') support group(s)
  - Education about addictive disease
  - Adherence to a 12-step recovery program philosophy, or equivalent
  - Written documentation of participation in 12-step recovery groups, or equivalent
- For registered nurse licensees, employment in nursing for a minimum of six (6) months with documentation (from the employer) that the employer was aware of the previous drug or alcohol abuse problems. Documentation must substantiate that while employed, there was no evidence of continued alcohol or drug use and that the respondent performed nursing functions in a safe and competent manner.

11. Respondent's evidence of rehabilitation was weighed and balanced against her unprofessional conduct. Respondent successfully completed an in-patient/out-patient and aftercare alcohol rehabilitation program. But, as noted in the Factual Findings, particularly Finding 11, respondent has not provided sufficient evidence that she should be granted an unrestricted license at this time. Moreover, she is not able to abide by terms and conditions of probation and a probationary license is therefore not warranted.

ORDER

The application of Robin Nicole Lavalli for a registered nurse license is  
DENIED.

Dated: August 22, 2012

  
ANN ELIZABETH SARLI  
Administrative Law Judge  
Office of Administrative Hearings

CALIFORNIA  
BOARD OF REGISTERED NURSING  
AUG 27 2012

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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No.

2012-188

13 **ROBIN NICOLE LAVALLI**  
7505 Woodcrest Drive  
14 Stanley, NC 28164

**STATEMENT OF ISSUES**

Respondent.

15  
16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Statement of Issues solely  
19 in her official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),  
20 Department of Consumer Affairs.

21 2. On or about January 11, 2011, the Board received an application for a registered  
22 nurse license from Robin Nicole Lavalli ("Respondent"). On or about January 4, 2011,  
23 Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and  
24 representations in the application. The Board denied the application on March 29, 2011.

25 **STATUTORY PROVISIONS**

26 3. Business and Professions Code ("Code") section 2736 provides, in pertinent part, that  
27 the Board may deny a license when it finds that the applicant has committed any acts constituting  
28 grounds for denial of licensure under section 480 of that Code.

1           4.    Code section 2761 states, in pertinent part:

2                   The board may take disciplinary action against a certified or licensed  
3 nurse or deny an application for a certificate or license for any of the following:

4                   (a) Unprofessional conduct . . .

5                   . . . .

6                   (f) Conviction of a felony or of any offense substantially related to the  
7 qualifications, functions, and duties of a registered nurse, in which event the record of  
the conviction shall be conclusive evidence thereof . . .

8           5.    Code section 2762 states, in pertinent part:

9                   In addition to other acts constituting unprofessional conduct within the  
10 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a  
person licensed under this chapter to do any of the following:

11                   . . . .

12                   (b) Use any controlled substance as defined in Division 10 (commencing  
13 with Section 11000) of the Health and Safety Code, or any dangerous drug or  
dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or  
14 in a manner dangerous or injurious to himself or herself, any other person, or the  
public or to the extent that such use impairs his or her ability to conduct with safety to  
15 the public the practice authorized by his or her license.

16                   (c) Be convicted of a criminal offense involving the prescription,  
consumption, or self administration of any of the substances described in subdivisions  
17 (a) and (b) of this section, or the possession of, or falsification of a record pertaining  
to, the substances described in subdivision (a) of this section, in which event the  
18 record of the conviction is conclusive evidence thereof . . .

19           6.    Code section 2765 states:

20                   A plea or verdict of guilty or a conviction following a plea of nolo  
21 contendere made to a charge substantially related to the qualifications, functions and  
duties of a registered nurse is deemed to be a conviction within the meaning of this  
22 article. The board may order the license or certificate suspended or revoked, or may  
decline to issue a license or certificate, when the time for appeal has elapsed, or the  
23 judgment of conviction has been affirmed on appeal or when an order granting  
probation is made suspending the imposition of sentence, irrespective of a subsequent  
24 order under the provisions of Section 1203.4 of the Penal Code allowing such person  
to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside  
25 the verdict of guilty, or dismissing the accusation, information or indictment.

26    ///

27    ///

28    ///

1           7.       Code section 480 states, in pertinent part:

2                   (a) A board may deny a license regulated by this code on the grounds that  
3                   the applicant has one of the following:

4                   (1) Been convicted of a crime. A conviction within the meaning of this  
5                   section means a plea or verdict of guilty or a conviction following a plea of nolo  
6                   contendere. Any action that a board is permitted to take following the establishment  
7                   of a conviction may be taken when the time for appeal has elapsed, or the judgment  
8                   of conviction has been affirmed on appeal, or when an order granting probation is  
9                   made suspending the imposition of sentence, irrespective of a subsequent order under  
10                  the provisions of Section 1203.4 of the Penal Code.

11                  .....  
12                  (3)(A) Done any act that if done by a licentiate of the business or  
13                  profession in question, would be grounds for suspension or revocation of license.

14                  (B) The board may deny a license pursuant to this subdivision only if the  
15                  crime or act is substantially related to the qualifications, functions, or duties of the  
16                  business or profession for which application is made . . .

17                                   **FIRST CAUSE FOR DENIAL**

18                                   **(Criminal Convictions)**

19           8.       Respondent's application is subject to denial pursuant to Code sections 2736, 2761,  
20           subdivision (f), and 480, subdivisions (a)(1) and (a)(3)(A), in that Respondent was convicted of  
21           crimes which are substantially related to the qualifications, functions, and duties of a registered  
22           nurse, as follows:

23           a.       On or about June 29, 2006, in the criminal proceeding titled *City of East Lansing v.*  
24           *Robin Nicole Lavalli* (54-B Judicial Dist., Michigan, 2006, Case No. 06-2398), Respondent pled  
25           guilty to operating a vehicle while intoxicated, a misdemeanor. The circumstances of the crime  
26           are as follows: On or about May 11, 2006, Respondent drove a vehicle while having a blood  
27           alcohol level of .17 percent.

28           b.       On or about November 21, 2007, in the criminal proceeding titled *State of Michigan*  
                 *v. Robin Nicole Lavalli* (52<sup>nd</sup> Judicial Dist., Michigan, 2007, Case No. 07-6341), Respondent pled  
                 guilty to operating a vehicle while intoxicated, a misdemeanor. The circumstances of the crime  
                 are as follows: On or about September 21, 2007, Respondent drove a vehicle while having a  
                 blood alcohol level of .14 percent.

///

